

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

RICHARD G. MILK
JULIET C. MILK

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 0923

Decision No. CU -434

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$4,170.00, was presented by RICHARD G. MILK and JULIET C. MILK based upon the asserted loss of personal property in Cuba. Claimants have been nationals of the United States since their birth in this country on September 28, 1915 and January 28, 1918, respectively.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. That section provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimants contend that they have lost their personal belongings which were located in the Director's Residence of the Agricultural and Industrial School at Playa Manteca, Cuba. They have submitted an itemized list of the personal property which was prepared from notes which were drafted upon RICHARD G. MILK's departure from Cuba in January 1961. The record also contains certain correspondence with the Board of Missions of the Methodist Church related to a claim filed with that body for losses arising from claimant's departure from Cuba.

Claimants state that the school and residence were confiscated in May 1961, that a request was made on their behalf to remove claimants' personalty from the Director's Residence, and that this request was denied. The record contains no information or evidence as to the identity of the party who occupied the school and residence or as to their disposition of claimants' belongings.

However, on December 6, 1961 the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country.

As the record indicates, claimants had left Cuba by January 1961. The Commission finds, in the absence of evidence to the contrary, that the subject personal property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

Claimants' detailed listing of the personal property includes an estimate of the date of purchase of the items, the price, and the value of the individual items in 1961. The stated total of the personalty is \$5,670.00. After consideration of the values ascribed, the Commission finds such amounts to be reasonable with the exception of the \$500.00 estimate for an upright freezer assertedly purchased in 1956. Upon consideration of the value of similar items listed in material available to the Commission, the Commission finds that the depreciated value of this nine cubic foot freezer in 1961 was \$350.00. Accordingly, it is concluded that claimants' estimate of \$5,670.00 should be reduced by \$150.00, and the Commission finds that claimants suffered a loss in the amount of \$5,520.00 within the meaning of Title V of the Act as a result of the taking of their personal property by the Government of Cuba.

Section 506 of the Act provides:

In determining the amount of any claim, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses.

The correspondence with the Board of Missions indicates that claimants have received payments in the amount of \$1,250.00 and \$850.00 with respect to the losses arising from their departure from Cuba. Claimants contend that the amount of \$850.00 was a "regular allowance" and does not constitute a reimbursement for their lost property. A September 21, 1967 letter from the Board of Missions indicates that the \$1,250.00 payment was a reimbursement for lost personalty but that the \$850.00 payment consisted of a \$600.00 travel allowance and a \$250.00 clothing allowance. The \$600.00 amount, therefore, is not based on the same losses for which a claim is presently made.

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In accordance with Section 506 of the Act, \$1,500.00, the amount received by claimants on account of the same losses which constituted the basis of this claim must be deducted from the amount of loss sustained by claimants. The Commission finds that claimants are entitled to a certification of loss in the amount of \$4,020.00.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% from the date of loss to the date of settlement. (See the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of the loss sustained by claimants shall be increased by interest thereon at the rate of 6% per annum from December 6, 1961, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that RICHARD G. MILK and JULIET C. MILK suffered an uncompensated loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Four Thousand Twenty Dollars (\$4,020.00) with interest thereon at 6% per annum from the date of loss to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

OCT 18 1967

Edward D. Re
Edward D. Re, Chairman

In a true
copy of the
Commission
Decision on

and correct copy of the decision
which was entered as the final

NOV 1 1967

Theodore Jaffe
Theodore Jaffe, Commissioner

LaVern R. Dilweg
Clerk of the Commission
LaVern R. Dilweg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

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